

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

Valencia Peterson and Lakesha Hooper, individually and on behalf of themselves and all other similarly situated, etc.,)	
)	Case No. 2:17-cv-2457 (JTF/dkv)
Plaintiffs,)	
)	Judge John T. Fowlkes, Jr.
v.)	
)	
Medtronic, Inc., Medtronic USA, Inc., Medtronic Logistics LLC, Medtronic Sofamor Danek USA, Inc., and Medtronic Sofamor Danek, Inc.,)	
)	
Defendants.)	
)	

DEFENDANTS' MOTION TO DISMISS
PLAINTIFFS' FIRST AMENDED CLASS AND COLLECTIVE ACTION COMPLAINT

Pursuant to Federal Rule of Civil Procedure 12(b)(6), Defendants Medtronic, Inc., Medtronic USA, Inc., Medtronic Logistics LLC, Medtronic Sofamor Danek USA, Inc., and Medtronic Sofamor Danek, Inc. (Defendants) move the Court to dismiss Plaintiffs' First Amended Class and Collective Action Complaint for failure to state a claim upon which relief can be granted.

In the wake of *Dukes v. Wal-Mart Stores, Inc.* and its progeny, Plaintiffs have not pled claims that can plausibly be brought on a class basis. Furthermore, Plaintiffs' disparate impact theory fails because Plaintiffs did not exhaust their administrative remedies under Title VII and have not pled a cognizable disparate impact claim. Finally, because Plaintiffs' claims are individual, and not collective, in nature, they should be dismissed and severed into two separate civil actions, pursuant to Federal Rule 21.

The facts and legal arguments supporting this Motion are detailed in the Memorandum in Support of Defendants' Motion to Dismiss Plaintiffs' First Amended Class and Collective Action

Complaint which was contemporaneously filed with this Motion, which is expressly incorporated herein by reference.

Dated: September 25, 2017

Respectfully submitted,

/s/ Andrew J. Voss

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CERTIFICATE OF SERVICE

I hereby certify that on September 25, 2017 this document was filed electronically through the Court's ECF system, is available for viewing and downloading from the ECF system and will be sent electronically to the registered participants identified on the Notice of Electronic Filings, including Plaintiffs' counsel of record as follows:

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